

REMARKS

The removal of the formalities rejection of claims 37-46 is noted with thanks. In addition, the allowance of claims 37-41 and substance of claim 55 is also noted with thanks. Claim 51 will be rewritten in independent form pending the discussion of claim 47 from which it depends.

Claim 50 was rejected because it lacked antecedent basis for "suture" in claim 47 from which is depended. Claim 50 is now dependent on claim 48 which adds "suture" as a structural limitation to claim 47. It is noted that claims 47 and 52 also require antecedent basis for suture, so these have been made dependent on claim 48. Accordingly, it is appropriate that the rejection of claim 50 under 35 USC 112 be withdrawn.

Independent claim 43 has been rejected under 35 USC 102(b) as being anticipated by Buelna et al. Rejection on this basis is respectfully traversed.

Although Buelna shows in Fig. 12 a series of tubes 225 and 227. These are not configured to carry suture material in a distal direction through a membrane as claimed by applicant in claim 43. The tubes 225 and 227 in Buelna are simply used to pinch suture material already introduced into the distal end through a wound opening in the artery. The suture material is pinched into slots 221 and 223 by the tubes 225 and 227 so that it may be pulled in a proximal direction through the openings formed by the needles 90, 92. Thus, there is no showing in the Buelna disclosure of a hollow needle configured to carry a portion of suture material in a distal direction through the membrane opening. This explanation of the Buelna patent is reinforced by statements made in the prosecution of the Buelna patent. On page 6 of paper #10, (copy enclosed) the applicant argued that "Applicant's invention uses a suture which is introduced into the body directly through the wound to be closed, not through the body wall adjacent to the

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wound to be closed." Thus, it is clear that the Buelna reference lacks the disclosure of a hollow needle configured to introduce suture material in a distal direction through the membrane adjacent the wound opening.

Claims 44-46 depend from claim 43 and are believed to be also patentably distinct from the Buelna reference. Accordingly, the rejection of claims 43-46 under 35 USC 102(b) should be withdrawn.

Claim 47 also was rejected on the reference to Buelna. Claim 47 now includes the limitation that the needle is configured to carry at least a portion of a length of suture material through the tissue membrane as the needle is advanced distally. As pointed out above, this limitation and feature is totally lacking in the reference to Buelna. Accordingly, it is believed that claim 47 as amended should be allowed.

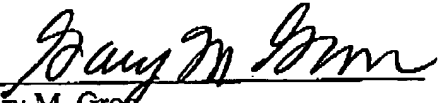
Claims 48-50 and 52 depend from claim 47 and are allowable for the same reasons as stated above. It is therefore believed that these claims also should be allowed.

Applicant notes the reference to Fitzgibbons set forth on the 5,476,470 which was one of the references considered in the patent prosecution of Buelna. It is believed that this reference also does not call for delivering a suture through a membrane adjacent the wound because it is intended to pierce the membrane surrounding a wound and then thread through suture using laparoscopic techniques.

The remaining art cited by the Examiner has been reviewed being not to be disclosed or teach applicants invention.

In view of the discussion above and the amendments to the claims reconsideration and allowance of this case is respectfully requested.

Respectfully submitted,

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